



PATENT
Attorney Docket No. 102.0003-04000
Customer No. 22882

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Gary Karlin Michelson, M.D.)
Serial No.: 09/626,636)
Filed: July 27, 2000) Group Art Unit: 3731
For: APPARATUS AND METHOD OF)
INSERTING SPINAL IMPLANTS) Examiner: U. Ho

Assistant Commissioner for Patents
Washington, D.C. 20231

RECEIVED
OCT 31 2002
TECHNOLOGY CENTER R3700

Sir:

INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. § 1.97(c)

Further to the Information Disclosure Statements filed July 27, 2000; July 16, 2001; and September 17, 2001; and pursuant to 37 C.F.R. §§ 1.56 and 1.97(c), applicant brings to the attention of the Examiner the documents listed on the attached Form PTO-1449. This Information Disclosure Statement is being filed after the events recited in Section 1.97(b) but, to the undersigned's knowledge, before the mailing date of either a Final Action or a Notice of Allowance. Under the provisions of 37 C.F.R. § 1.97(c), this Information Disclosure Statement is accompanied by a fee of \$180.00 as specified by Section 1.17(p).

Copies of the cited U.S. patents and English language abstracts, Search Reports, or in some cases where available, more complete translations or U.S./U.K.

related patents of the listed non-English documents (previously cited) are attached.

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Please note that in the Information Disclosure Statements submitted July 27, 2000, ES 283078 is related to U.S. Patent No. 4,877,020; JP 57-29348 is related to U.S. Patent No. 4,349,921; and JP 61-122859 is related to U.S. Patent No. 4,759,766, all of which were cited in the Information Disclosure Statements dated July 27, 2000. Additionally, the applicant submits herewith the following U.S./U.K. related patents corresponding with the following non-English references:

GB 1291470	relates to	DE 1961531
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GB 1492990	relates to	DE 2446039
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GB 1531487	relates to	FR 2295729
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US 5,279,292	relates to	DE 4104359
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Applicant respectfully requests that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

Further to the Information Disclosure Statements dated July 16 and September 17, 2001, Litigation 3 is no longer pending. Litigation 3 was settled with the defendant retracting its assertions of invalidity and inequitable conduct. Discovery documents relating to the aforementioned litigation are available upon request.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claim in the application and applicant determines that the cited documents do not constitute "prior art" under United States law, applicant


reserves the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application. If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 50-1066.

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: October 23, 2002

By: 
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Washington, D.C. 20231

Sir:

CERTIFICATE OF MAILING VIA FIRST CLASS MAIL

Date of Deposit: October 23, 2002

I hereby certify that:

1. Information Disclosure Statement
2. Form PTO-1449 with documents cited therein
3. Check in the amount of \$180.00
4. Self-addressed return postcard receipt

are being deposited with the United States Postal Service to Addressee with sufficient postage as first class mail under 37 C.F.R. § 1.8 on the date indicated above and are addressed to:

Assistant Commissioner for Patents
Washington, D.C. 20231

Date: October 23, 2002


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